

Approved Minutes
Utah Charter School Finance Authority
January 5, 2015

Members of the Authority present:

Richard Ellis (Chair of Authority, Utah State Treasurer)
Phil Dean (Governor's Office of Management and Budget)
Bruce D. Williams (Secretary of Authority, Utah State Office of Education)

Others Present:

David Damschen (Deputy Utah State Treasurer)
Danny Schoenfeld (Utah State Office of Education)
Erin Preston (Lear & Lear)
Ryan Warburton (Ballard Spahr)
Jacob Carlton (Ballard Spahr)
Preston Olsen (Ballard Spahr)
Brandon Johnson (Chapman & Cutler)
Brian Baker (Zions Bank)
David Robertson (Lewis, Young, Robertson and Burningham)
Jon Bronson (Zions Bank)
Perri Babalis (Attorney General)

Meeting called to order by Richard Ellis at 3:07

Items of Business:

1. Approval of Minutes

Motion was made to approve the minutes of the October 17, 2014 meeting by Bruce Williams. The motion was carried unanimously.

2. Discussion

David Robertson, financial advisor to George Washington Academy, explained that the school is considering application for a credit-enhanced refunding of one of two series (the school's original 2008 financing with \$8.6 million and a subsequent, Series 2011 financing for \$5.8 million) of the bonds the school has outstanding.

The school's current rating is BB+. Its debt ratio has been cited as a weakness, but that ratio is improving, and Mr. Robertson opined that the school has a good chance to receive a BBB- rating. The school is one of few schools rated "A" by the State Office of Education.

It is presently economically advantageous for the school to seek a credit-enhanced refunding of the 2008 bonds, but the school feels that it would not be advantageous to refund the Series 2011 bonds at this time.

Mr. Williams asked whether the two series outstanding shared the same collateral. Mr. Robertson confirmed that they do and are under one indenture.

Mr. Williams pointed out that a credit enhanced refunding would create two different classes of bondholders sharing common collateral, and Mr. Robertson suggested that all bondholders would have parity claims.

Mr. Williams also asked about loan-to-value considerations in general and how they pertained to this particular transaction, expressing concerns about the risks this represents to the state should it enhance such credits.

Mr. Robertson pointed out that most revenue bonds have only the revenues as security, but charter school bonds have “double barreled” security with both revenues and real estate assets as collateral.

Mr. Robertson also pointed out the likelihood that other charter school bond issues have been completed with financed amounts which exceed the value of collateralized real estate, and Mr. Williams agreed and asserted this was his concern and reason for asking.

Mr. Ellis asked bond counsel (Mr. Olsen) for a legal perspective on the exposure to the state that corresponds with such a transaction.

Mr. Olsen mentioned payment timing differences that would need to be resolved, the problems with two issues supported by the same collateral and possibly by the same debt service reserve fund, the Authority’s loss of control over remedies that it requires to have as provided in its Credit Enhancement Program. (If holders of unenhanced bonds accelerated, the Authority would be forced to accelerate at the same time due to its parity position with the unenhanced bondholders).

Mr. Ellis and Mr. Williams expressed their concerns about the negative impact such parity and loss of control over remedies could have on the state and on other bonds enhanced by the state’s moral obligation pledge.

Mr. Williams asked whether the Authority had ever been asked to consider enhancing one of two series and being placed at parity with unenhanced bondholders before, and Mr. Olsen confirmed that such a request was unprecedented. The possibility of similar requests from other schools was discussed, and Mr. Williams stressed the benefit of addressing such situations comprehensively soon via policy. Mr. Williams further suggested that the preferred approach would be to require that all bonds be refunded and enhanced together, rather than allowing bifurcations such as is considered by George Washington Academy’s inquiry.

Mr. Bronson asked Mr. Olsen whether there was some way for unenhanced bondholders to bear subordinate rights to the state’s rights under a parity arrangement. Mr. Olsen said he did not know how this might be accomplished.

Mr. Williams asked about the possibility of enhancing outstanding bonds without refunding them and just charging Credit Enhancement Program contributions going forward. The idea was discussed. Mr. Olsen pointed out that this wouldn’t address the limitations that the Authority would encounter in trying to assert its remedies under the program.

The loan-to-value issue was reiterated, and Mr. Robertson mentioned that the school does not have a recent appraisal.

Ms. Preston suggested that loan-to-value could also be looked upon as a mitigating factor in cases where the Authority might consider enhancing less than all bonds outstanding but strong collateral values might better support the incremental exposure.

Mr. Bronson committed to researching the history of loan-to-value on previous charter school transactions financed through the Authority.

The board advised Mr. Robertson that an application for the refunding and enhancement of both series of bonds outstanding would be most favorably considered, based on this meeting's discussions.

Motion was made by Bruce Williams to adjourn at 4:13 PM.